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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
OYEBISI, OJO O	
ART UNIT	**PAPER NUMBER**
3692	

DATE MAILED: 10/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/853,243	HAEHLE, JOERG	
	Examiner	Art Unit	
	OJO O. OYEBISI	3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 August 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4 and 6-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4, 6-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

In the amendment filed on 08/09/06, the following have occurred: Claims 1, 6, 7, 9, 14, 15 have been amended, claim 5 has been cancelled, and claims 1-4 and 6-20 remain pending. Further, the amended to the abstract has necessitated the withdrawal of the objection to the specification, and also the correction made to the Oath/Declaration has necessitated the withdrawal of the objection to Oath/Declaration.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

2. Claims 1-4 and 6-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barber et al (Barber hereinafter, US PAT: 6,088,435) in view of Diaz et al (Diaz hereinafter, US PAT: 6,356,822).

Re claim 1. Barber discloses a brokering facility for recording and outputting tender information via a voice communication network, the brokering facility comprising:

recording means for recording, under voice menu control, tender information from tenderers (i.e., subscribers) calling via the voice communication network (i.e., record subscriber message, see fig.6 element 120, see col.4, lines 40-60, also see col.1, lines 42-45); a database for storing recorded tender information (i.e., telephone message stored in a database, see abstract); requesting means for parties calling (i.e., requesting subscriber, see abstract) via the voice communication network to request (see abstract), under voice menu control (see col.4, lines 40-45), tender information stored in the database (i.e., telephone message stored in a database, see abstract), the tender information being available to various parties (see abstract); and outputting means for outputting the requested tender information to a requesting party (see fig.6 element 124) (see abstract and the summary of invention). Barber does not explicitly disclose location detecting means for detecting a location of a caller and for controlling the brokering facility based on a detected location of the caller. However, Diaz discloses means for detecting a location of a caller and for controlling the brokering facility based on a detected location of the caller (i.e., At the drivers active request or upon regular intervals, the ECCC will provide routing information to the enrolled vehicles. The ECCC will have a running fix of the enrolled vehicles' locations. The routing information will allow the drivers of the vehicle platforms to choose and use the most efficient routes to transit. Prior art routing information included the best path based upon the shortest distance. Of course the shortest mileage is not necessarily the most efficient route. The ECCC will also have a geographic fix of devices and locations pertinent to the business and its needs. The ECCC upon sensing the

uplinked location of the vehicle platforms will analyze the location of the vehicle. The ECCC will then collect input traffic information throughout the NAFTA countries (or other contiguous geographic regions) from Department of Transportation (DOT) repeaters (or international equivalent service), weather information from the National Weather Service (or international equivalent service) and other route effecting information from news services such as civil unrest or labor strife, as well as the shortest distance routing information. The traffic condition ECCC will then provide a cohesive route plan through electronic downlinking to the enrolled vehicle platforms with automatic updates upon the changing of the input information, see col.3, lines 25-55). Thus, it would have been obvious to one of ordinary skill in the art to incorporate the teaching of Diaz into Barber to provide the most ideal and effective route to the user in case of emergency. Further, official notice is taken that it is old and well known in satellites navigation art to detect/pinpoint the location/position of callers to at least 10 metres. Global Positioning System (GPS), spaced-based radio-navigation system, consisting of 24 satellites and ground support. GPS provides users with accurate information about their position and velocity, as well as the time, anywhere in the world and in all weather conditions. Thus, it would have been obvious to one of ordinary skill in the art to incorporate what is old and well known the art into Barber to provide users with accurate and effective route information during emergency.

Re claim 2. Barber further discloses the brokering facility of claim 1, comprising: a voice menu control device for requesting, under voice menu control, control information from a tenderer and/or a party calling via the voice communication network (see col.4, lines

25-45).

Re claim 3. Barber further discloses the brokering facility of claim 2, wherein the recording means and/or the requesting means comprises selecting means (i.e., multi level menu selection/arrangement, see col.4 lines 26-30) for selecting an item of tender information based on an item of selection information contained in requested control information (see col.4 lines 25-45).

Re claim 4. Barber further discloses the brokering facility of claim 2 or 3, wherein the tender information comprises different tender categories in the database, and wherein the recording means and/or the requesting means comprise selecting means for selecting a tender category based on selection information contained in requested control information (see col.4, lines 25-45).

Re claim 6. Barber discloses the brokering facility, wherein the recording means records, under voice menu control, tender information from a tenderer (i.e., record subscriber message, see fig.6 element 120), but not based on a detected location of the tenderer. Daiz does not explicitly disclose the recording means records, under voice menu control, tender information from a tenderer based on detected location of the tenderer. However, if it is desired to record tender information from tenderer based on the detected location of the tenderer, one of ordinary skill in the art would have been motivated to incorporate the old and well known GPS system described supra into Barber to achieve this because this would provide users with accurate and effective route information during emergency.

Re claim 7. Barber discloses the brokering facility, wherein the requesting means requests, under voice menu control, tender information (i.e., record subscriber message, see fig.6 element 120), but not based on a detected location of the interested party. Diaz makes this disclosure (i.e., At the drivers active request or upon regular intervals, the ECCC will provide routing information to the enrolled vehicles. The ECCC will have a running fix of the enrolled vehicles' locations. The routing information will allow the drivers of the vehicle platforms to choose and use the most efficient routes to transit.... The ECCC upon sensing the uplinked location of the vehicle platforms will analyze the location of the vehicle, see col.3, lines 25-55). Thus, it would have been obvious to one of ordinary skill in the art to incorporate the teaching of Diaz into Barber to provide the most ideal and effective route to the user in case of emergency. Further, if it is desired to record tender information based on the detected location of the interested party, one of ordinary skill in the art would have been motivated to incorporate the old and well known GPS system described supra into Barber to achieve this because this would provide users with accurate and effective route information during emergency.

Re claim 8. Barber further discloses the brokering facility of claim 1, further comprising: authentication means for verifying an item of authentication information that is entered by a calling tenderer and for granting access authorization to the tenderer if the authentication information is verified (see fig.3)

Re claim 9. Barber further discloses the brokering facility of claim 1, further comprising: connection detecting means for detecting connection identification information from

callers (i.e., a party seeking information is automatically connected...., see abstract), and a database in which an item of connection identification information from a caller has an associated individual item of user profile information (i.e., subscriber specifies topic/or profile, see fig.4 element 96).

Re claim 10. Barber further discloses the brokering facility of claim 9, wherein the recording means records, under voice menu control, tender information based on stored user profile information associated with a detected item of connection identification information from a tenderer (i.e., record subscriber message, see fig.6 element 120, also see abstract).

Re claim 11. Barber further discloses the brokering facility of claim 9 or 10, wherein the requesting means requests, under voice menu control, tender information on the basis of stored user profile information associated with a detected item of connection identification information from a party (see col.4, lines 35-60).

Re claim 12. Barber further discloses the brokering facility of claim 1, further comprising: a switching device for setting up a connection between a party and a tenderer of an item of tender information selected by the party (see fig.1 elements 16, 22, 24, 26 18, 20, and 34).

Re claim 13. Barber further discloses the brokering facility of claim 1, further comprising: logging means for logging access operations to tender information from a tenderer and for outputting logged access information to the tenderer (see fig.3).

Re claim 14. Barber further discloses the brokering facility of claim 1, further comprising: debiting means for detecting access operations to the brokering facility and

for debiting charges for individual tenderers (i.e., subscribers) and/or interested parties (i.e., requesting subscribers) based on detected access operation (i.e., billing the subscribers for calls, see col.3, lines 40-60).

Re claim 15. Barber further discloses a brokering system comprising: a plurality of brokering facilities, each brokering facility further comprising: a switching device for setting up a connection between a caller and a one of the plurality of brokering facilities (see fig.1 elements 16, 22, 24, 26 18, 20, and 34). Barber does not explicitly disclose a brokering facility that detects a location of the caller. Diaz makes this disclosure (i.e., At the drivers active request or upon regular intervals, the ECCC will provide routing information to the enrolled vehicles. The ECCC will have a running fix of the enrolled vehicles' locations. The routing information will allow the drivers of the vehicle platforms to choose and use the most efficient routes to transit.... The ECCC upon sensing the uplinked location of the vehicle platforms will analyze the location of the vehicle (see col.3, lines 25-55). Thus, it would have been obvious to one of ordinary skill in the art to incorporate the teaching of Diaz or the old and well known GPS system described supra into Barber to provide the most ideal and effective route to the user in case of emergency.

Re claim 16. Claim 16 recites similar limitations to claim 1 and thus rejected using the same art and rationale as in claim 1.

Re claim 17. Claim 17 recites similar limitations to claim 6 and thus rejected using the same art and rationale as in claim 6.

Re claim 18. Claim 18 recites similar limitations to claim 7 and thus rejected using the same art and rationale as in claim 7.

Re claim 19. Claim 19 recites similar limitations to claim 12 and thus rejected using the same art and rationale as in claim 12.

Re claim 20. Barber further discloses the brokering system, wherein the one or more processing devices comprise a server (see fig.1 element 30).

Response to Arguments

3. Applicant's arguments filed 08/09/06 have been fully considered but they are not persuasive. The applicant argues in substance that there is no suggestion or motivation, in the references themselves or in the knowledge generally available to those of skill in the art, to combine the cited references. This argument by the applicant is predicated on the notion that since, the secondary reference, Diaz is a vehicle tracking system with GPS, thus there would be no motivation to incorporate his teachings into Barber system, which is an interactive telephone network system. Further, the applicant states that the old and well-known GPS system cited supra would provide an additional layer of complexity, and would require redesign to the Barber circuitry, if incorporated into Barber's. Consequently, there would be no reason why this system i.e., GPS would be incorporated into Barber. It appears that the applicant recognizes that the cited references i.e., Barber, Diaz and the old and well known GPS system, in combination, teach each and every element of the claimed subject matter of the applicant's invention, but rather lacks the motivation/suggestion for the combination of these references. The Examiner recognizes that references cannot be arbitrarily combined and that there must

be some reason why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. In re Nomiya, 184 USPQ 607 (CCPA 1975). However, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art. In re McLaughlin, 170 USPQ 209 (CCPA 1971). references are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. In re Bozek, 163 USPQ 545 (CCPA) 1969. In this case, the motivation for the combination of the secondary reference (i.e., Diaz), with the primary reference (i.e., Barber) is to provide the most ideal and effective route to the user in case of emergency, and this motivation can be found in Diaz col.4 line s 5-20 (i.e., Municipal emergency vehicle small and large fleets could use the routing information to ensure that emergency vehicles such as police, fire, and ambulance vehicles may avoid obstacles such as traffic jams, bad weather, closed roads, open draw bridges, and the like. The ECCC input information will include the status of these intra-city and country obstructions to smooth passage and use this information to compute and downlink the most effective route to the emergency response vehicles. As with utility vehicles, some events or conditions require a response from out of area crews and vehicles. The ECCC routing and trip information will be invaluable to providing command and control of the out of area as well as local emergency vehicles and crews, see col.4 lines 5-20). Further, the old and well known GPS system could also be incorporated or integrated into the electronic component of Barber's communication system for detecting caller's location and for

providing users with accurate information about user's position and velocity, anywhere in the world and in all weather, since GPS is a spaced-based radio-navigation system, consisting of 24 satellites and ground support. For example, an old and well-known application of GPS system is in cellular phones. Nowadays, the GPS is commonly integrated into the electronic component of many cellular phone systems, which helps in detecting the location of user's in case of emergency. This has helped law enforcement agents in tracking down the exact location of kidnapped victims who were lucky enough to make phone calls why in bondage.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OJO O. OYEBISI whose telephone number is (571) 272-8298. The examiner can normally be reached on 8:30A.M-5:30P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RICHARD E.CHILCOT reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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